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11
12 IN THE UNITED STATES BANKRUPTCY COURT
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA
14 SANTA ROSA DIVISION

15 In the Matter of

16 CHARLES DENIS DOWNIE and
17 LYDIA DOWNIE,

18 Debtors.

19 Case No. 10-11995
20 Chapter 13

21 CALIFORNIA DEPARTMENT OF VETERANS
22 AFFAIRS' OBJECTION TO AMENDED
23 CHAPTER 13 PLAN OF JULY 22, 2010

24 Date: December 20, 2010
25 Time: 10:00 a.m.
26 Place: 99 E Street, Santa Rosa, CA
27 Judge: Honorable Alan Jaroslovsky

28 Petition Filed: May 26, 2010

29 The California Department of Veterans Affairs (CDVA) hereby objects to the confirmation of
30 Debtors' Amended Chapter 13 Plan of July 22, 2010:

31 **INTRODUCTION**

32 On or about July 22, 2010, Debtors submitted an Amended Chapter 13 Plan in which they
33 listed the CDVA as having two liens secured by the real property located at 10133 Fairway Drive,
34 Kelseyville, California 95451 (Subject Property). One is the CalVet loan used to purchase the Subject
35 Property, loan no. 934328, and the other is a home improvement loan, loan no. 970512.

36 Since the submission of the July 22, 2010 Amended Plan, three events have occurred which
37 now invalidate the Plan: (1) Whereas the Amended Chapter 13 Plan of July 22, 2010 reflects the

1 Debtors' "intent" to strip a lien held by American General Finance Company, there is no indication
2 they have actually done so. Upon information and belief, they have in fact reached an agreement with
3 American General to pay its lien in full; (2) On November 3, 2010 the Subject Property appraised at
4 \$120,000 (See Declaration of Leslie A. Puppo filed concurrently herewith); and (3) the CDVA has
5 withdrawn its opposition to Debtors' motion to strip the CDVA's home improvement loan. In short,
6 the July 22, 2010 Amended Plan no longer reflects the true character of the liens that once were
7 thought to be secured by the Subject Property.

8 **OBJECTION TO PLAN**

9 Rule 3015-1(b) (4) of the Local Rules of Practice provides that late-filed objections will be
10 considered if they are made prior to plan confirmation when the objecting party acted diligently. Here,
11 the CDVA acted diligently because the true character of any loan secured by the Subject Property
12 could not be known until the Subject Property was appraised and that did not happen until November
13 3, 2010.

14 If the CDVA's home improvement lien is stripped, then the Amended Chapter 13 Plan of
15 July 22, 2010 is invalid because the Plan characterizes that loan as a secured loan. Moreover, the
16 appraised value confirms that American General's lien is unsecured. If approval of the Amended
17 Chapter 13 Plan of July 22, 2010 allows American General to be paid in full when other unsecured
18 creditors are not, the Plan improperly favors one unsecured creditor over others.

19 The CDVA respectfully objects to the Amended Chapter 13 Plan of July 22, 2010. Debtors
20 should be required to submit an amended plan based upon the true value of the Subject Property.

22 Dated: November 29, 2010 Respectfully submitted,

23 ROBERT D. WILSON
24 Deputy Secretary and Chief Counsel
25 CALIFORNIA DEPARTMENT OF VETERANS AFFAIRS

27 By /s/ Robert D. Wilson
28 ROBERT D. WILSON
Attorney for California Department of Veterans Affairs